

ID: CCA_2013052209132420

Office:

UILC: 6321.03-00

Number: **201323019**

Release Date: 6/7/2013

From:

Sent: Wednesday, May 22, 2013 9:13:26 AM

To:

Cc:

Subject: Decedent case question- no probate

You asked whether the federal tax lien under section 6321 would remain attached to property that passes by a beneficiary deed (which is created by state statute). The section 6321 lien attaches to all of decedent's property and right to property while the taxpayer lives. Generally, when property is owned by the decedent and other party with rights of survivorship, the decedent's property rights terminate automatically upon death. An example of this is when property is held as tenancy by the entireties. In the tenancy by the entireties case, the property is held by spouses as a marital unit. If one spouse dies, then the property is owned by the surviving spouse. (See Notice 2003-60, 2003 C.B. 643 which states with respect to entireties property, that upon the death of the taxpayer there is no longer an interest held in the property by the taxpayer to which a federal tax lien attaches). In contrast, the beneficiary here does not hold property in common ownership with the decedent with rights of survivorship. Before death, the decedent has the right to revoke or change the beneficiary deed and the beneficiary does not have rights to the property before the taxpayer's death. Thus, the federal tax lien remains on the property.

Please let me know if you have any questions.

Thanks,